

103D CONGRESS
1ST SESSION

S. 1058

To amend the Internal Revenue Code of 1986 to create real jobs in America through investment and savings incentives, to pay for such incentives by decreasing Federal spending, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 28 (legislative day, APRIL 19), 1993

Mr. ROTH (for himself, Mr. LOTT, Mr. DOLE, Mr. SIMPSON, Mr. COCHRAN, Mr. NICKLES, Mr. MACK, Mr. CRAIG, Mr. BENNETT, Mr. HATCH, Mr. WALLOP, Mr. THURMOND, Mr. STEVENS, Mr. HELMS, Mr. MURKOWSKI, Mr. BURNS, Mr. COATS, Mr. SMITH, Mr. FAIRCLOTH, and Mr. GREGG) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to create real jobs in America through investment and savings incentives, to pay for such incentives by decreasing Federal spending, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Real Jobs for America
5 Act of 1993”.

1 **TITLE I—INVESTMENT AND**
 2 **SAVINGS INCENTIVES**

3 **SEC. 100. AMENDMENT OF 1986 CODE.**

4 Except as otherwise expressly provided, whenever in
 5 this Act an amendment or repeal is expressed in terms
 6 of an amendment to, or repeal of, a section or other provi-
 7 sion, the reference shall be considered to be made to a
 8 section or other provision of the Internal Revenue Code
 9 of 1986.

10 **Subtitle A—Reductions in Cost of**
 11 **Capital and Tax Penalties on In-**
 12 **vestment**

13 **SEC. 101. INDEXING OF CERTAIN ASSETS FOR PURPOSES**
 14 **OF DETERMINING GAIN OR LOSS.**

15 (a) IN GENERAL.—Part II of subchapter O of chap-
 16 ter 1 (relating to basis rules of general application) is
 17 amended by inserting after section 1021 the following new
 18 section:

19 **“SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES**
 20 **OF DETERMINING GAIN OR LOSS.**

21 “(a) GENERAL RULE.—

22 “(1) INDEXED BASIS SUBSTITUTED FOR AD-
 23 JUSTED BASIS.—Except as provided in paragraph
 24 (2), if an indexed asset which has been held for
 25 more than 3 years is sold or otherwise disposed of,

1 for purposes of this title the indexed basis of the
2 asset shall be substituted for its adjusted basis.

3 “(2) EXCEPTION FOR DEPRECIATION, ETC.—
4 The deduction for depreciation, depletion, and amor-
5 tization shall be determined without regard to the
6 application of paragraph (1) to the taxpayer or any
7 other person.

8 “(b) INDEXED ASSET.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the term ‘indexed asset’ means—

11 “(A) stock in a corporation,

12 “(B) tangible property (or any interest
13 therein) which is a capital asset or property
14 used in the trade or business (as defined in sec-
15 tion 1231(b)), and

16 “(C) the principal residence of the tax-
17 payer (within the meaning of section 1034).

18 “(2) CERTAIN PROPERTY EXCLUDED.—For
19 purposes of this section, the term ‘indexed asset’
20 does not include—

21 “(A) CREDITOR’S INTEREST.—Any interest
22 in property which is in the nature of a credi-
23 tor’s interest.

24 “(B) OPTIONS.—Any option or other right
25 to acquire an interest in property.

1 “(C) NET LEASE PROPERTY.—In the case
2 of a lessor, net lease property (within the mean-
3 ing of subsection (h)(1)).

4 “(D) CERTAIN PREFERRED STOCK.—Stock
5 which is fixed and preferred as to dividends and
6 does not participate in corporate growth to any
7 significant extent.

8 “(E) STOCK IN CERTAIN CORPORATIONS.—
9 Stock in—

10 “(i) an S corporation (within the
11 meaning of section 1361),

12 “(ii) a personal holding company (as
13 defined in section 542), and

14 “(iii) a foreign corporation.

15 “(F) COLLECTIBLES.—Any collectible (as
16 defined in section 408(m)(2)).

17 “(3) EXCEPTION FOR STOCK IN FOREIGN COR-
18 PORATION WHICH IS REGULARLY TRADED ON NA-
19 TIONAL OR REGIONAL EXCHANGE.—Clause (iii) of
20 paragraph (2)(E) shall not apply to stock in a for-
21 eign corporation the stock of which is listed on the
22 New York Stock Exchange, the American Stock Ex-
23 change, or any domestic regional exchange for which
24 quotations are published on a regular basis other
25 than—

1 “(A) stock of a foreign investment com-
2 pany (within the meaning of section 1246(b)),
3 and

4 “(B) stock in a foreign corporation held by
5 a United States person who meets the require-
6 ments of section 1248 (a)(2).

7 “(c) INDEXED BASIS.—For purposes of this sec-
8 tion—

9 “(1) INDEXED BASIS.—The indexed basis for
10 any asset is—

11 “(A) the adjusted basis of the asset, multi-
12 plied by

13 “(B) the applicable inflation ratio.

14 “(2) APPLICABLE INFLATION RATIO.—The ap-
15 plicable inflation ratio for any asset is the percent-
16 age arrived at by dividing—

17 “(A) the CPI for the calendar year preced-
18 ing the calendar year in which the disposition
19 takes place, by

20 “(B) the CPI for the calendar year 1992
21 (or, if later, the calendar year preceding the cal-
22 endar year in which the asset was acquired by
23 the taxpayer).

24 The applicable inflation ratio shall not be taken into
25 account unless it is greater than 1. The applicable

1 inflation ratio for any asset shall be rounded to the
2 nearest one-tenth of 1 percent.

3 “(3) CPI.—The CPI for any calendar year shall
4 be determined under section 1(f)(4).

5 “(d) SPECIAL RULES.—For purposes of this sec-
6 tion—

7 “(1) TREATMENT AS SEPARATE ASSET.—In the
8 case of any asset, the following shall be treated as
9 a separate asset:

10 “(A) a substantial improvement to prop-
11 erty,

12 “(B) in the case of stock of a corporation,
13 a substantial contribution to capital, and

14 “(C) any other portion of an asset to the
15 extent that separate treatment of such portion
16 is appropriate to carry out the purposes of this
17 section.

18 “(2) ASSETS WHICH ARE NOT INDEXED ASSETS
19 THROUGHOUT HOLDING PERIOD.—

20 “(A) IN GENERAL.—The applicable infla-
21 tion ratio shall be appropriately reduced for cal-
22 endar months at any time during which the
23 asset was not an indexed asset.

24 “(B) CERTAIN SHORT SALES.—For pur-
25 poses of applying subparagraph (A), an asset

1 shall be treated as not an indexed asset for any
2 short sale period during which the taxpayer or
3 the taxpayer's spouse sells short property sub-
4 stantially identical to the asset. For purposes of
5 the preceding sentence, the short sale period be-
6 gins on the day after the substantially identical
7 property is sold and ends on the closing date
8 for the sale.

9 “(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a
10 corporation which is not a dividend shall be treated
11 as a disposition.
12

13 “(4) SECTION CANNOT INCREASE ORDINARY
14 LOSS.—To the extent that (but for this paragraph)
15 this section would create or increase a net ordinary
16 loss to which section 1231(a)(2) applies or an ordi-
17 nary loss to which any other provision of this title
18 applies, such provision shall not apply. The taxpayer
19 shall be treated as having a long-term capital loss in
20 an amount equal to the amount of the ordinary loss
21 to which the preceding sentence applies.

22 “(5) ACQUISITION DATE WHERE THERE HAS
23 BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)
24 WITH RESPECT TO THE TAXPAYER.—If there has
25 been a prior application of subsection (a)(1) to an

1 asset while such asset was held by the taxpayer, the
2 date of acquisition of such asset by the taxpayer
3 shall be treated as not earlier than the date of the
4 most recent such prior application.

5 “(6) COLLAPSIBLE CORPORATIONS.—The appli-
6 cation of section 341(a) (relating to collapsible cor-
7 porations) shall be determined without regard to this
8 section.

9 “(e) CERTAIN CONDUIT ENTITIES.—

10 “(1) REGULATED INVESTMENT COMPANIES;
11 REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST
12 FUNDS.—

13 “(A) IN GENERAL.—Stock in a qualified
14 investment entity shall be an indexed asset for
15 any calendar month in the same ratio as the
16 fair market value of the assets held by such en-
17 tity at the close of such month which are in-
18 dexed assets bears to the fair market value of
19 all assets of such entity at the close of such
20 month.

21 “(B) RATIO OF 90 PERCENT OR MORE.—If
22 the ratio for any calendar month determined
23 under subparagraph (A) would (but for this
24 subparagraph) be 90 percent or more, such
25 ratio for such month shall be 100 percent.

1 “(C) RATIO OF 10 PERCENT OR LESS.—If
2 the ratio for any calendar month determined
3 under subparagraph (A) would (but for this
4 subparagraph) be 10 percent or less, such ratio
5 for such month shall be zero.

6 “(D) VALUATION OF ASSETS IN CASE OF
7 REAL ESTATE INVESTMENT TRUSTS.—Nothing
8 in this paragraph shall require a real estate in-
9 vestment trust to value its assets more fre-
10 quently than once each 36 months (except
11 where such trust ceases to exist). The ratio
12 under subparagraph (A) for any calendar
13 month for which there is no valuation shall be
14 the trustee’s good faith judgment as to such
15 valuation.

16 “(E) QUALIFIED INVESTMENT ENTITY.—
17 For purposes of this paragraph, the term
18 ‘qualified investment entity’ means—

19 “(i) a regulated investment company
20 (within the meaning of section 851),

21 “(ii) a real estate investment trust
22 (within the meaning of section 856), and

23 “(iii) a common trust fund (within the
24 meaning of section 584).

1 “(2) PARTNERSHIPS.—In the case of a partner-
2 ship, the adjustment made under subsection (a) at
3 the partnership level shall be passed through to the
4 partners.

5 “(3) SUBCHAPTER S CORPORATIONS.—In the
6 case of an electing small business corporation, the
7 adjustment under subsection (a) at the corporate
8 level shall be passed through to the shareholders.

9 “(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

10 “(1) IN GENERAL.—This section shall not apply
11 to any sale or other disposition of property between
12 related persons except to the extent that the basis
13 of such property in the hands of the transferee is a
14 substituted basis.

15 “(2) RELATED PERSONS DEFINED.—For pur-
16 poses of this section, the term ‘related persons’
17 means—

18 “(A) persons bearing a relationship set
19 forth in section 267(b), and

20 “(B) persons treated as single employer
21 under subsection (b) or (c) of section 414.

22 “(g) TRANSFERS TO INCREASE INDEXING ADJUST-
23 MENT OR DEPRECIATION ALLOWANCE.—If any person
24 transfers cash, debt, or any other property to another per-
25 son and the principal purpose of such transfer is—

1 “(1) to secure or increase an adjustment under
2 subsection (a), or

3 “(2) to increase (by reason of an adjustment
4 under subsection (a)) a deduction for depreciation,
5 depletion, or amortization,

6 the Secretary may disallow part or all of such adjustment
7 or increase.

8 “(h) DEFINITIONS.—For purposes of this section—

9 “(1) NET LEASE PROPERTY DEFINED.—The
10 term ‘net lease property’ means leased real property
11 where—

12 “(A) the term of the lease (taking into ac-
13 count options to renew) was 50 percent or more
14 of the useful life of the property, and

15 “(B) for the period of the lease, the sum
16 of the deductions with respect to such property
17 which are allowable to the lessor solely by rea-
18 son of section 162 (other than rents and reim-
19 bursed amounts with respect to such property)
20 is 15 percent or less of the rental income pro-
21 duced by such property.

22 “(2) STOCK INCLUDES INTEREST IN COMMON
23 TRUST FUND.—The term ‘stock in a corporation’ in-
24 cludes any interest in a common trust fund (as de-
25 fined in section 584(a)).

1 “(i) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary or appropriate to
3 carry out the purposes of this section.”

4 (b) ADJUSTMENT TO APPLY FOR PURPOSES OF DE-
5 TERMINING EARNINGS AND PROFITS.—Subsection (f) of
6 section 312 of such Code (relating to effect on earnings
7 and profits of gain or loss and of receipt of tax-free dis-
8 tributions) is amended by adding at the end thereof the
9 following new paragraph:

10 “(3) EFFECT ON EARNINGS AND PROFITS OF
11 INDEXED BASIS.—For substitution of indexed basis
12 for adjusted basis in the case of the disposition of
13 certain assets on or after January 1, 1999, see sec-
14 tion 1022(a)(1).”

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for part II of subchapter O of such chapter 1 is amended
17 by inserting after the item relating to section 1021 the
18 following new item:

“Sec. 1022. Indexing of certain assets for purposes of determining
gain or loss.”

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to dispositions on or after January
21 1, 1993, in taxable years ending after such date.

1 **SEC. 102. MODIFICATION TO MINIMUM TAX DEPRECIATION**
2 **RULES.**

3 (a) GENERAL RULE.—Paragraph (1) of section 56(a)
4 (relating to depreciation) is amended by redesignating
5 subparagraphs (B), (C), and (D) as subparagraphs (C),
6 (D), and (E), respectively, and by inserting after subpara-
7 graph (A) the following new subparagraph:

8 “(B) TREATMENT OF CERTAIN PERSONAL
9 PROPERTY PLACED IN SERVICE AFTER JUNE 30,
10 1993.—

11 “(i) IN GENERAL.—In the case of any
12 property to which this subparagraph ap-
13 plies, the depreciation deduction allowable
14 under section 167 shall be determined
15 under the alternative system under section
16 168(g), except that the method of depre-
17 ciation used shall be the method used for
18 purposes of section 168.

19 “(ii) PROPERTY TO WHICH SUBPARA-
20 GRAPH APPLIES.—This subparagraph shall
21 apply to any tangible property placed in
22 service after June 30, 1993, except that
23 this subparagraph shall not apply to any
24 residential rental property or
25 nonresidential real property (within the
26 meaning of section 168(e)).

1 “(iii) COORDINATION WITH SUBPARA-
2 GRAPH (A).—Subparagraph (A) shall not
3 apply to any property to which this sub-
4 paragraph applies.”

5 (b) ELIMINATION OF ACE DEPRECIATION ADJUST-
6 MENT.—Clause (i) of section 56(g)(4)(A) (relating to de-
7 preciation adjustments for computing adjusted current
8 earnings) is amended by adding at the end thereof the
9 following new sentence: “The preceding sentence shall not
10 apply to any property to which subsection (a)(1)(B) ap-
11 plies, and the depreciation deduction with respect to such
12 property shall be determined under the rules of subsection
13 (a)(1)(B).”

14 (c) CONFORMING AMENDMENTS.—Section 56(g)(4)
15 is amended by striking subparagraphs (E), (F), and (G)
16 and by redesignating subparagraph (I) as subparagraph
17 (E).

18 (d) EFFECTIVE DATES.—

19 (1) IN GENERAL.—Except as provided in this
20 subsection, the amendments made by this section
21 shall apply to property placed in service after June
22 30, 1993.

23 (2) CONFORMING CHANGES.—The amendments
24 made by subsection (c) shall apply to exchanges, ac-

1 be applied by substituting ‘1993’ for ‘1989’. The
2 amount determined under the preceding sentence
3 shall be rounded to the nearest multiple of \$100.”

4 (c) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to taxable years beginning after
6 June 30, 1992.

7 **Subtitle C—Increased Savings**
8 **Through Individual Retirement**
9 **Accounts**

10 **PART I—IRA DEDUCTION**

11 **SEC. 121. RESTORATION OF IRA DEDUCTION.**

12 (a) IN GENERAL.—Section 219 (relating to deduction
13 for retirement savings) is amended by striking subsection
14 (g) and by redesignating subsection (h) as subsection (g).

15 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

16 (1) Subsection (f) of section 219 is amended by
17 striking paragraph (7).

18 (2) Paragraph (5) of section 408(d) is amended
19 by striking the last sentence.

20 (3) Section 408(o) is amended by adding at the
21 end thereof the following new paragraph:

22 “(5) TERMINATION.—This subsection shall not
23 apply to any designated nondeductible contribution
24 for any taxable year beginning after December 31,
25 1995.”

1 (4) Subsection (b) of section 4973 is amended
2 by striking the last sentence.

3 (c) EFFECTIVE DATES.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply to taxable years beginning
6 after December 31, 1995.

7 (2) SPECIAL ACCOUNTS.—For purposes of ap-
8 plying section 408A of the Internal Revenue Code of
9 1986 (as added by section 131), the amendments
10 made by this section shall apply to taxable years be-
11 ginning after December 31, 1993 (and to qualified
12 transfers after the date of the enactment of this
13 Act).

14 **SEC. 122. INFLATION ADJUSTMENT FOR DEDUCTIBLE**
15 **AMOUNT.**

16 (a) IN GENERAL.—Section 219, as amended by sec-
17 tion 121, is amended by redesignating subsection (g) as
18 subsection (h) and by inserting after subsection (f) the
19 following new subsection:

20 “(g) COST-OF-LIVING ADJUSTMENTS.—

21 “(1) IN GENERAL.—If the cost-of-living amount
22 for any calendar year is equal to or greater than
23 \$500, then each applicable dollar amount (as pre-
24 viously adjusted under this subsection) for any tax-

1 able year beginning in any subsequent calendar year
2 shall be increased by \$500.

3 “(2) COST-OF-LIVING AMOUNT.—The cost-of-
4 living amount for any calendar year is the excess (if
5 any) of—

6 “(A) \$2,000, increased by the cost-of-living
7 adjustment for such calendar year, over

8 “(B) the applicable dollar amount in effect
9 under subsection (b)(1)(A) for taxable years be-
10 ginning in such calendar year.

11 “(3) COST-OF-LIVING ADJUSTMENT.—For pur-
12 poses of this subsection—

13 “(A) IN GENERAL.—The cost-of-living ad-
14 justment for any calendar year is the percent-
15 age (if any) by which—

16 “(i) the CPI for such calendar year,
17 exceeds

18 “(ii) the CPI for 1994.

19 “(B) CPI FOR ANY CALENDAR YEAR.—The
20 CPI for any calendar year shall be determined
21 in the same manner as under section 1(f)(4).

22 “(4) APPLICABLE DOLLAR AMOUNT.—For pur-
23 poses of this subsection, the term ‘applicable dollar
24 amount’ means the dollar amount in effect under
25 any of the following provisions:

1 “(A) Subsection (b)(1)(A).

2 “(B) Subsection (c)(2)(A)(i).

3 “(C) The last sentence of subsection
4 (c)(2).”

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 408(a)(1) is amended by striking
7 “in excess of \$2,000 on behalf of any individual”
8 and inserting “on behalf of any individual in excess
9 of the amount in effect for such taxable year under
10 section 219(b)(1)(A)”.

11 (2) Section 408(b)(2)(B) is amended by strik-
12 ing “\$2,000” and inserting “the dollar amount in
13 effect under section 219(b)(1)(A)”.

14 (3) Section 408(d)(5) is amended by striking
15 “\$2,250” and inserting “the dollar amount in effect
16 for such taxable year under section 219(c)(2)(A)(i)”.

17 (4) Section 408(j) is amended by striking
18 “\$2,000”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 1995.

1 **SEC. 123. COORDINATION OF IRA DEDUCTION LIMIT WITH**
2 **ELECTIVE DEFERRAL LIMIT.**

3 (a) IN GENERAL.—Section 219(b) (relating to maxi-
4 mum amount of deduction) is amended by adding at the
5 end thereof the following new paragraph:

6 “(4) COORDINATION WITH ELECTIVE DEFER-
7 RAL LIMIT.—The amount determined under para-
8 graph (1) or subsection (c)(2) with respect to any
9 individual for any taxable year shall not exceed the
10 excess (if any) of—

11 “(A) the maximum amount of elective de-
12 ferrals of the individual which are excludable
13 from gross income for the taxable year under
14 section 402(g)(1), over

15 “(B) the amount so excluded.”

16 (b) CONFORMING AMENDMENT.—Section 219(c) is
17 amended by adding at the end thereof the following new
18 paragraph:

19 “(3) CROSS REFERENCE.—

“For reduction in paragraph (2) amount, see sub-
section (b)(4).”

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 1995.

1 **PART II—NONDEDUCTIBLE TAX-FREE IRAs**

2 **SEC. 131. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE**
3 **INDIVIDUAL RETIREMENT ACCOUNTS.**

4 (a) IN GENERAL.—Subpart A of part I of subchapter
5 D of chapter 1 (relating to pension, profit-sharing, stock
6 bonus plans, etc.) is amended by inserting after section
7 408 the following new section:

8 **“SEC. 408A. INDIVIDUAL RETIREMENT PLUS ACCOUNTS.**

9 “(a) GENERAL RULE.—Except as provided in this
10 section, an individual retirement plus account shall be
11 treated for purposes of this title in the same manner as
12 an individual retirement plan.

13 “(b) INDIVIDUAL RETIREMENT PLUS ACCOUNT.—
14 For purposes of this title, the term ‘individual retirement
15 plus account’ means an individual retirement plan which
16 is designated at the time of establishment of the plan as
17 an individual retirement plus account.

18 “(c) TREATMENT OF CONTRIBUTIONS.—

19 “(1) NO DEDUCTION ALLOWED.—No deduction
20 shall be allowed under section 219 for a contribution
21 to an individual retirement plus account.

22 “(2) CONTRIBUTION LIMIT.—The aggregate
23 amount of contributions for any taxable year to all
24 individual retirement plus accounts maintained for
25 the benefit of an individual shall not exceed the ex-
26 cess (if any) of—

1 “(A) the maximum amount allowable as a
2 deduction under section 219 with respect to
3 such individual for such taxable year, over

4 “(B) the amount so allowed.

5 “(3) SPECIAL RULES FOR QUALIFIED TRANS-
6 FERS.—

7 “(A) IN GENERAL.—No rollover contribu-
8 tion may be made to an individual retirement
9 plus account unless it is a qualified transfer.

10 “(B) LIMIT NOT TO APPLY.—The limita-
11 tion under paragraph (2) shall not apply to a
12 qualified transfer to an individual retirement
13 plus account.

14 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

15 “(1) IN GENERAL.—Except as provided in this
16 subsection, any amount paid or distributed out of an
17 individual retirement plus account shall not be in-
18 cluded in the gross income of the distributee.

19 “(2) EXCEPTION FOR EARNINGS ON CONTRIBU-
20 TIONS HELD LESS THAN 5 YEARS.—

21 “(A) IN GENERAL.—Any amount distrib-
22 uted out of an individual retirement plus ac-
23 count which consists of earnings allocable to
24 contributions made to the account during the 5-
25 year period ending on the day before such dis-

1 tribution shall be included in the gross income
2 of the distributee for the taxable year in which
3 the distribution occurs.

4 “(B) ORDERING RULE.—

5 “(i) FIRST-IN, FIRST-OUT RULE.—

6 Distributions from an individual retirement
7 plus account shall be treated as having
8 been made—

9 “(I) first from the earliest con-
10 tribution (and earnings allocable
11 thereto) remaining in the account at
12 the time of the distribution, and

13 “(II) then from other contribu-
14 tions (and earnings allocable thereto)
15 in the order in which made.

16 “(ii) ALLOCATIONS BETWEEN CON-
17 TRIBUTIONS AND EARNINGS.—Any portion
18 of a distribution allocated to a contribution
19 (and earnings allocable thereto) shall be
20 treated as allocated first to the earnings
21 and then to the contribution.

22 “(iii) ALLOCATION OF EARNINGS.—
23 Earnings shall be allocated to a contribu-
24 tion in such manner as the Secretary may
25 by regulations prescribe.

1 “(iv) CONTRIBUTIONS IN SAME
2 YEAR.—Except as provided in regulations,
3 all contributions made during the same
4 taxable year may be treated as 1 contribu-
5 tion for purposes of this subparagraph.

6 “(C) CROSS REFERENCE.—

“For additional tax for early withdrawal, see section 72(t).

7 “(3) QUALIFIED TRANSFER.—

8 “(A) IN GENERAL.—Paragraph (2) shall
9 not apply to any distribution which is trans-
10 ferred in a qualified transfer to another individ-
11 ual retirement plus account.

12 “(B) CONTRIBUTION PERIOD.—For pur-
13 poses of paragraph (2), the individual retire-
14 ment plus account to which any contributions
15 are transferred shall be treated as having held
16 such contributions during any period such con-
17 tributions were held (or are treated as held
18 under this subparagraph) by the individual re-
19 tirement plus account from which transferred.

20 “(4) SPECIAL RULES RELATING TO CERTAIN
21 TRANSFERS.—

22 “(A) IN GENERAL.—Notwithstanding any
23 other provision of law, in the case of a qualified
24 transfer to an individual retirement plus ac-

1 count from an individual retirement plan or
2 qualified plan which is not an individual retire-
3 ment plus account—

4 “(i) there shall be included in gross
5 income any amount which, but for the
6 qualified transfer, would be includible in
7 gross income, but

8 “(ii) section 72(t) shall not apply to
9 such amount.

10 “(B) 4-YEAR RATABLE INCLUSION.—In the
11 case of any qualified transfer described in sub-
12 paragraph (A) which is made during the phase-
13 in period, any amount includible in gross in-
14 come under subparagraph (A) with respect to
15 such contribution shall be includible ratably
16 over the 4-taxable year period beginning in the
17 taxable year in which the amount was paid or
18 distributed out of the individual retirement
19 plan.

20 “(C) PHASE-IN PERIOD.—For purposes of
21 subparagraph (B), the term ‘phase-in period’
22 means the period beginning on the date of the
23 enactment of this section and ending on the last
24 day of the 2d calendar year following the cal-

1 endar year in which such date of enactment oc-
2 curs.”

3 “(e) QUALIFIED TRANSFER.—For purposes of this
4 section—

5 “(1) IN GENERAL.—The term ‘qualified trans-
6 fer’ means a transfer to an individual retirement
7 plus account—

8 “(A) from another such account; or

9 “(B) from an individual retirement plan or
10 qualified plan, but only if such transfer meets
11 the requirements of section 408(d)(3).

12 “(2) QUALIFIED PLAN.—The term ‘qualified
13 plan’ means any trust or contract described in sec-
14 tion 72(e)(5)(D) (i) or (ii).

15 (b) EARLY WITHDRAWAL PENALTY.—Section 72(t),
16 as amended by section 141(c), is amended by adding at
17 the end thereof the following new paragraph:

18 “(8) RULES RELATING TO SPECIAL INDIVIDUAL
19 RETIREMENT ACCOUNTS.—In the case of an individ-
20 ual retirement plus account under section 408A—

21 “(A) this subsection shall only apply to
22 distributions out of such account which consist
23 of earnings allocable to contributions made to
24 the account during the 5-year period ending on
25 the day before such distribution, and

1 “(B) paragraph (2)(A)(i) shall not apply to
2 any distribution described in subparagraph
3 (A).”

4 (c) EXCESS CONTRIBUTIONS.—Section 4973(b) is
5 amended by adding at the end thereof the following new
6 sentence: “For purposes of paragraphs (1)(B) and (2)(C),
7 the amount allowable as a deduction under section 219
8 shall be computed without regard to section 408A.”

9 (d) CONFORMING AMENDMENT.—The table of sec-
10 tions for subpart A of part I of subchapter D of chapter
11 1 is amended by inserting after the item relating to section
12 408 the following new item:

 “Sec. 408A. Individual retirement plus accounts.”

13 (e) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall apply to taxable years beginning after Decem-
17 ber 31, 1993.

18 (2) QUALIFIED TRANSFERS IN 1993.—The
19 amendments made by this section shall apply to any
20 qualified transfer after the date of the enactment of
21 this Act.

1 **PART III—PENALTY-FREE DISTRIBUTIONS**
2 **SEC. 141. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE**
3 **USED WITHOUT PENALTY TO PURCHASE**
4 **FIRST HOMES, TO PAY HIGHER EDUCATION**
5 **OR FINANCIALLY DEVASTATING MEDICAL EX-**
6 **PENSES, OR BY THE LONG-TERM UNEM-**
7 **PLOYED.**

8 (a) IN GENERAL.—Paragraph (2) of section 72(t)
9 (relating to exceptions to 10-percent additional tax on
10 early distributions from qualified retirement plans) is
11 amended by adding at the end thereof the following new
12 subparagraph:

13 “(D) DISTRIBUTIONS FROM CERTAIN
14 PLANS FOR FIRST HOME PURCHASES OR EDU-
15 CATIONAL EXPENSES.—Distributions to an in-
16 dividual from an individual retirement plan, or
17 from amounts attributable to employer con-
18 tributions made pursuant to elective deferrals
19 described in subparagraph (A) or (C) of section
20 402(g)(3) or section 501(c)(18)(D)(iii)—

21 “(i) which are qualified first-time
22 homebuyer distributions (as defined in
23 paragraph (6)); or

24 “(ii) to the extent such distributions
25 do not exceed the qualified higher edu-

1 cation expenses (as defined in paragraph
2 (7)) of the taxpayer for the taxable year.”

3 (b) FINANCIALLY DEVASTATING MEDICAL EX-
4 PENSES.—

5 (1) IN GENERAL.—Section 72(t)(3)(A) is
6 amended by striking “(B),”.

7 (2) CERTAIN LINEAL DESCENDANTS AND AN-
8 CESTORS TREATED AS DEPENDENTS.—Subpara-
9 graph (B) of section 72(t)(2) is amended by striking
10 “medical care” and all that follows and inserting
11 “medical care determined—

12 “(i) without regard to whether the
13 employee itemizes deductions for such tax-
14 able year, and

15 “(ii) by treating such employee’s de-
16 pendents as including—

17 “(I) all children and grand-
18 children of the employee or such em-
19 ployee’s spouse, and

20 “(II) all ancestors of the em-
21 ployee or such employee’s spouse.”

22 (3) CONFORMING AMENDMENT.—Subparagraph
23 (B) of section 72(t)(2) is amended by striking “or
24 (C)” and inserting “, (C) or (D)”.

1 (c) DEFINITIONS.—Section 72(t) is amended by add-
2 ing at the end thereof the following new paragraphs:

3 “(6) QUALIFIED FIRST-TIME HOMEBUYER DIS-
4 TRIBUTIONS.—For purposes of paragraph
5 (2)(D)(i)—

6 “(A) IN GENERAL.—The term ‘qualified
7 first-time homebuyer distribution’ means any
8 payment or distribution received by an individ-
9 ual to the extent such payment or distribution
10 is used by the individual before the close of the
11 60th day after the day on which such payment
12 or distribution is received to pay qualified ac-
13 quisition costs with respect to a principal resi-
14 dence of a first-time homebuyer who is such in-
15 dividual or the spouse, child, or grandchild of
16 such individual.

17 “(B) QUALIFIED ACQUISITION COSTS.—
18 For purposes of this paragraph, the term
19 ‘qualified acquisition costs’ means the costs of
20 acquiring, constructing, or reconstructing a res-
21 idence. Such term includes any usual or reason-
22 able settlement, financing, or other closing
23 costs.

1 “(C) FIRST-TIME HOMEBUYER; OTHER
2 DEFINITIONS.—For purposes of this para-
3 graph—

4 “(i) FIRST-TIME HOMEBUYER.—The
5 term ‘first-time homebuyer’ means any in-
6 dividual if—

7 “(I) such individual (and if mar-
8 ried, such individual’s spouse) had no
9 present ownership interest in a prin-
10 cipal residence during the 3-year pe-
11 riod ending on the date of acquisition
12 of the principal residence to which
13 this paragraph applies, and

14 “(II) subsection (a)(6), (h), or
15 (k) of section 1034 did not suspend
16 the running of any period of time
17 specified in section 1034 with respect
18 to such individual on the day before
19 the date the distribution is applied
20 pursuant to subparagraph (A).

21 “(ii) PRINCIPAL RESIDENCE.—The
22 term ‘principal residence’ has the same
23 meaning as when used in section 1034.

24 “(iii) DATE OF ACQUISITION.—The
25 term ‘date of acquisition’ means the date—

1 “(I) on which a binding contract
2 to acquire the principal residence to
3 which subparagraph (A) applies is en-
4 tered into, or

5 “(II) on which construction or re-
6 construction of such a principal resi-
7 dence is commenced.

8 “(D) SPECIAL RULE WHERE DELAY IN AC-
9 QUISITION.—If any distribution from any indi-
10 vidual retirement plan fails to meet the require-
11 ments of subparagraph (A) solely by reason of
12 a delay or cancellation of the purchase or con-
13 struction of the residence, the amount of the
14 distribution may be contributed to an individual
15 retirement plan as provided in section
16 408(d)(3)(A)(i) (determined by substituting
17 ‘120 days’ for ‘60 days’ in such section), except
18 that—

19 “(i) section 408(d)(3)(B) shall not be
20 applied to such contribution, and

21 “(ii) such amount shall not be taken
22 into account in determining whether sec-
23 tion 408(d)(3)(A)(i) applies to any other
24 amount.

1 “(7) QUALIFIED HIGHER EDUCATION EX-
2 PENSES.—For purposes of paragraph (2)(D)(ii)—

3 “(A) IN GENERAL.—The term ‘qualified
4 higher education expenses’ means tuition, fees,
5 books, supplies, and equipment required for the
6 enrollment or attendance of—

7 “(i) the taxpayer,

8 “(ii) the taxpayer’s spouse, or

9 “(iii) the taxpayer’s child (as defined
10 in section 151(c)(3)) or grandchild,

11 at an eligible educational institution (as defined
12 in section 135(c)(3)).

13 “(B) COORDINATION WITH SAVINGS BOND
14 PROVISIONS.—The amount of qualified higher
15 education expenses for any taxable year shall be
16 reduced by any amount excludable from gross
17 income under section 135.”

18 (d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN
19 UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section
20 72(t) is amended by adding at the end thereof the follow-
21 ing new subparagraph:

22 “(E) DISTRIBUTIONS TO UNEMPLOYED INDI-
23 VIDUALS.—A distribution from an individual retire-
24 ment plan (other than a plan referred to in

1 subclause (I) or (II) of paragraph (6)(A)(iii)) to an
2 individual after separation from employment, if—

3 “(i) such individual has received unemploy-
4 ment compensation for 12 consecutive weeks
5 under any Federal or State unemployment com-
6 pensation law by reason of such separation, and

7 “(ii) such distributions are made during
8 any taxable year during which such unemploy-
9 ment compensation is paid or the succeeding
10 taxable year.

11 To the extent provided in regulations, a self-em-
12 ployed individual shall be treated as meeting the re-
13 quirements of clause (i) if, under Federal or State
14 unemployment compensation, the individual would
15 have received unemployment compensation for 12
16 consecutive weeks but for the fact the individual was
17 self-employed.”

18 (e) SPECIAL RULE FOR CERTAIN DISASTER VIC-
19 TIMS.—For purposes of section 72(t)(6) of the Internal
20 Revenue Code of 1986, an individual whose principal resi-
21 dence was destroyed or substantially damaged by Hurri-
22 cane Andrew, Hurricane Iniki, or Typhoon Omar shall be
23 treated as a first-time homebuyer with respect to such res-
24 idence if the individual rebuilds it or with respect to any

1 other principal residence acquired to replace such resi-
2 dence.

3 (f) CONFORMING AMENDMENTS.—

4 (1) Section 401(k)(2)(B)(i) is amended by
5 striking “or” at the end of subclause (III), by strik-
6 ing “and” at the end of subclause (IV) and inserting
7 “or”, and by inserting after subclause (IV) the fol-
8 lowing new subclause:

9 “(V) the date on which qualified
10 first-time homebuyer distributions (as
11 defined in section 72(t)(6)) or dis-
12 tributions for qualified higher edu-
13 cation expenses (as defined in section
14 72(t)(7)) are made, and”.

15 (2) Section 403(b)(11) is amended by striking
16 “or” at the end of subparagraph (A), by striking the
17 period at the end of subparagraph (B) and inserting
18 “, or”, and by inserting after subparagraph (B) the
19 following new subparagraph:

20 “(C) for qualified first-time homebuyer dis-
21 tributions (as defined in section 72(t)(6)) or for
22 the payment of qualified higher education ex-
23 penses (as defined in section 72(t)(7)).”

1 (g) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to payments and distributions after
3 December 31, 1993.

4 **SEC. 142. CONTRIBUTIONS MUST BE HELD AT LEAST 5**
5 **YEARS IN CERTAIN CASES.**

6 (a) IN GENERAL.—Section 72(t), as amended by sec-
7 tion 131(b), is amended by adding at the end thereof the
8 following new paragraph:

9 “(9) CERTAIN CONTRIBUTIONS MUST BE HELD
10 5 YEARS.—

11 “(A) IN GENERAL.—Paragraph (2)(A)(i)
12 shall not apply to any amount distributed out
13 of an individual retirement plan (other than an
14 individual retirement plus account) which is al-
15 locable to contributions made to the plan during
16 the 5-year period ending on the date of such
17 distribution (and earnings on such contribu-
18 tions).

19 “(B) ORDERING RULE.—For purposes of
20 this paragraph, distributions shall be treated as
21 having been made—

22 “(i) first from the earliest contribu-
23 tion (and earnings allocable thereto) re-
24 maining in the account at the time of the
25 distribution, and

1 “(ii) then from other contributions
2 (and earnings allocable thereto) in the
3 order in which made.

4 Earnings shall be allocated to contributions in
5 such manner as the Secretary may prescribe.

6 “(C) SPECIAL RULE FOR ROLLOVERS.—

7 “(i) PENSION PLANS.—Subparagraph
8 (A) shall not apply to distributions out of
9 an individual retirement plan which are al-
10 locable to rollover contributions to which
11 section 402(c), 403(a)(4), or 403(b)(8) ap-
12 plied.

13 “(ii) CONTRIBUTION PERIOD.—For
14 purposes of subparagraph (A), amounts
15 shall be treated as having been held by a
16 plan during any period such contributions
17 were held (or are treated as held under
18 this clause) by any individual retirement
19 plan from which transferred.

20 “(D) PLUS ACCOUNTS.—For rules applica-
21 ble to individual retirement plus accounts under
22 section 408A, see paragraph (8).”

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to contributions (and earnings allo-

1 cable thereto) which are made after the date of the enact-
 2 ment of this Act.

3 **Subtitle D—Incentives for Private**
 4 **Businesses To Hire New Employees**

5 **SEC. 151. REFUNDABLE TAX CREDIT FOR HIRING NEW EM-**
 6 **PLOYEES.**

7 (a) IN GENERAL.—Subpart C of part IV of sub-
 8 chapter A of chapter 1 (relating to refundable credits) is
 9 amended by redesignating section 35 as section 36 and
 10 by inserting after section 34 the following new section:

11 **“SEC. 35. EMPLOYMENT TAXES ON NEW EMPLOYEES.**

12 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 13 lowed as a credit against the tax imposed by this subtitle
 14 for the taxable year an amount equal to the employment
 15 taxes paid on the qualified wages of eligible new employees
 16 of the employer.

17 “(b) ELIGIBLE NEW EMPLOYEES.—For purposes of
 18 this section—

19 “(1) IN GENERAL.—The term ‘eligible new em-
 20 ployee’ means, with respect to any employer, an em-
 21 ployee who first begins work for the employer during
 22 the period beginning July 1, 1993, and ending June
 23 30, 1994, and

24 “(2) REPLACEMENT EMPLOYEES NOT COUNT-
 25 ED.—

1 “(A) IN GENERAL.—The number of em-
2 ployees treated as eligible new employees for
3 any payroll period shall not exceed the excess
4 (if any) of—

5 “(i) the number of full-time employees
6 of the employer during the payroll period,
7 over

8 “(ii) the average number of full-time
9 employees of the employer during the 12-
10 month period ending on June 30, 1993.

11 “(B) ORDERING RULE.—If subparagraph
12 (A) results in a reduction in the number of em-
13 ployees who may be treated as eligible new em-
14 ployees for any payroll period, such reduction
15 shall come from employees with the highest
16 wages for such period.

17 “(c) EMPLOYMENT TAXES; WAGES.—For purposes
18 of this section—

19 “(1) EMPLOYMENT TAXES.—The term ‘employ-
20 ment taxes’ means—

21 “(A) the amount of the taxes imposed by
22 subsections (a) and (b) of section 3111 (relat-
23 ing to Social Security taxes),

1 “(B) the amount of the taxes imposed by
2 section 3221 (relating to tier 1 railroad retire-
3 ment taxes), and

4 “(C) the tax imposed by section 3301 (re-
5 lating to unemployment taxes).

6 “(2) QUALIFIED WAGES.—

7 “(A) IN GENERAL.—The term ‘qualified
8 wages’ means, with respect to any employee,
9 wages paid or incurred by the employer which
10 are attributable to services rendered by the em-
11 ployee during the 6-month period beginning
12 with the day the employee begins work for the
13 employer. Such term shall not include wages
14 treated as qualified first-year wages under sec-
15 tion 51.

16 “(B) WAGES.—The term ‘wages’ means
17 any wages with respect to which employment
18 taxes are required to be paid.

19 “(d) SPECIAL RULES.—Rules similar to the rules of
20 subsections (f), (h), (i), and (k) of section 51 and the rules
21 of section 52 shall apply for purposes of this section.”

22 (b) COORDINATION WITH REFUND PROVISION.—For
23 purposes of section 1324(b)(2) of title 31 of the United
24 States Code, section 35 of the Internal Revenue Code of
25 1986 shall be considered to be a credit provision of the

1 Internal Revenue Code of 1954 enacted before January
2 1, 1978.

3 (c) CONFORMING AMENDMENTS.—(1) Subparagraph
4 (A) of section 51(i)(1) is amended by inserting “, or, if
5 the taxpayer is an entity other than a corporation, to any
6 individual who owns, directly or indirectly, more than 50
7 percent of the capital and profits interests in the entity,”
8 after “of the corporation”.

9 (2) The table of sections for subpart C of part IV
10 of subchapter A of chapter 1 is amended by striking the
11 item relating to section 35 and inserting the following new
12 items:

“Sec. 35. Employment taxes on new employees.
“Sec. 36. Overpayments of tax.”

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years ending after the
15 date of the enactment of this Act.

16 **SEC. 152. REPEAL OF LUXURY EXCISE TAXES.**

17 (a) IN GENERAL.—Chapter 31 (relating to retail ex-
18 cise taxes) is amended by striking subchapter A and by
19 redesignating subchapters B and C as subchapters A and
20 B, respectively.

21 (b) CONFORMING AMENDMENTS.—

22 (1) The material preceding paragraph (1) of
23 section 4221(a) is amended by striking “subchapter
24 A or C of chapter 31” and inserting “section 4051”.

1 (2) Subsection (a) of section 4221 is amended
2 by striking the last sentence.

3 (3) Subsection (c) of section 4221 is amended
4 by striking “section 4001(c), 4002(b), 4003(c),
5 4004(a), or 4053(a)(6)” and inserting “section
6 4053(a)(6)”.

7 (4) Paragraph (1) of section 4221(d) is amend-
8 ed by striking “taxes imposed by subchapter A or C
9 of chapter 31” and inserting “the tax imposed by
10 section 4051”.

11 (5) Subsection (d) of section 4222 is amended
12 by striking “sections 4001(c), 4002(b), 4003(c),
13 4004(a), 4053(a)(6)” and inserting “sections
14 4053(a)(6)”.

15 (6) Section 4293 is amended by striking “sub-
16 chapter A of chapter 31,”.

17 (7) The table of subchapters for chapter 31 is
18 amended to read as follows:

“SUBCHAPTER A. Special fuels.

“SUBCHAPTER B. Heavy trucks and trailers.”

19 (c) EXEMPTION FROM LUXURY EXCISE TAX FOR
20 CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHI-
21 CLES FOR USE BY DISABLED INDIVIDUALS.—

22 (1) IN GENERAL.—Paragraph (3) of section
23 4004(b) (relating to separate purchase of article and
24 parts and accessories therefor), as in effect on the

1 day before the date of the enactment of this Act, is
2 amended—

3 (A) by striking “or” at the end of subpara-
4 graph (A),

5 (B) by redesignating subparagraph (B) as
6 subparagraph (C),

7 (C) by inserting after subparagraph (A)
8 the following new subparagraph:

9 “(B) the part or accessory is installed on
10 a passenger vehicle to enable or assist an indi-
11 vidual with a disability to operate the vehicle, or
12 to enter or exit the vehicle, by compensating for
13 the effect of such disability, or”, and

14 (D) by inserting after subparagraph (C)
15 the following flush sentence:

16 “The price of any part or accessory (and its installa-
17 tion) to which paragraph (1) does not apply by rea-
18 son of this paragraph shall not be taken into ac-
19 count under paragraph (2)(A).”

20 (2) EFFECTIVE DATE.—The amendments made
21 by this subsection shall take effect as if included in
22 the amendments made by section 11221(a) of the
23 Omnibus Budget Reconciliation Act of 1990.

24 (3) PERIOD FOR FILING CLAIMS.—If refund or
25 credit of any overpayment of tax resulting from the

1 application of the amendments made by this sub-
2 section is prevented at any time before the close of
3 the 1-year period beginning on the date of the enact-
4 ment of this Act by the operation of any law or rule
5 of law (including res judicata), refund or credit of
6 such overpayment (to the extent attributable to such
7 amendments) may, nevertheless, be made or allowed
8 if claim therefore is filed before the close of such 1-
9 year period.

10 (d) EFFECTIVE DATE.—Except as provided in sub-
11 section (c)(2), the amendments made by this section shall
12 take effect on January 1, 1993.

13 **SEC. 153. APPLICATION OF PASSIVE LOSS RULES TO RENT-**
14 **AL REAL ESTATE ACTIVITIES.**

15 (a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS
16 IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY
17 TREATED AS PASSIVE ACTIVITIES.—Subsection (c) of sec-
18 tion 469 (defining passive activity) is amended by adding
19 at the end thereof the following new paragraph:

20 “(7) SPECIAL RULES FOR TAXPAYERS IN REAL
21 PROPERTY BUSINESS.—

22 “(A) IN GENERAL.—If this paragraph ap-
23 plies to any taxpayer for a taxable year—

1 “(i) paragraph (2) shall not apply to
2 any rental real estate activity of such tax-
3 payer for such taxable year, and

4 “(ii) this section shall be applied as if
5 each interest of the taxpayer in rental real
6 estate were a separate activity.

7 Notwithstanding clause (ii), a taxpayer may
8 elect to treat all interests in rental real estate
9 as 1 activity. Nothing in the preceding provi-
10 sions of this subparagraph shall be construed as
11 affecting the determination of whether the tax-
12 payer materially participates with respect to
13 any interest in a limited partnership as a lim-
14 ited partner.

15 “(B) TAXPAYERS TO WHOM PARAGRAPH
16 APPLIES.—This paragraph shall apply to a tax-
17 payer for a taxable year if more than one-half
18 of the personal services performed in trades or
19 businesses by the taxpayer during such taxable
20 year are performed in real property trades or
21 businesses in which the taxpayer materially par-
22 ticipates.

23 “(C) REAL PROPERTY TRADE OR BUSI-
24 NESS.—For purposes of this paragraph, the
25 term ‘real property trade or business’ means

1 any real property development, redevelopment,
2 construction, reconstruction, acquisition, con-
3 version, rental, operation, management, leasing,
4 or brokerage trade or business.

5 “(D) SPECIAL RULES FOR SUBPARAGRAPH
6 (B).—

7 “(i) CLOSELY HELD C CORPORA-
8 TIONS.—In the case of a closely held C
9 corporation, the requirements of subpara-
10 graph (B) shall be treated as met for any
11 taxable year if more than 50 percent of the
12 gross receipts of such corporation for such
13 taxable year are derived from real property
14 trades or businesses in which the corpora-
15 tion materially participates.

16 “(ii) PERSONAL SERVICES AS AN EM-
17 PLOYEE.—For purposes of subparagraph
18 (B), personal services performed as an em-
19 ployee shall not be treated as performed in
20 real property trades or businesses. The
21 preceding sentence shall not apply if such
22 employee is a 5-percent owner (as defined
23 in section 416(i)(1)(B)) in the employer.”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Paragraph (2) of section 469(c) is amended
2 by striking “The” and inserting “Except as provided
3 in paragraph (7), the”.

4 (2) Clause (iv) of section 469(i)(3)(E) is
5 amended by inserting “or any loss allowable by rea-
6 son of subsection (c)(7)” after “loss”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 1992.

10 **TITLE II—DEFICIT REDUCTIONS**
11 **Subtitle A—Extension of the Caps**
12 **on Discretionary Spending**

13 **SEC. 201. EXTENSION OF THE CAPS.**

14 (a) FISCAL YEAR 1993.—For fiscal year 1993, the
15 discretionary spending limits established in section
16 601(a)(2) of the Congressional Budget Act of 1974 as in
17 effect on the date of enactment of this Act for the three
18 categories for such fiscal year shall be reduced by an ag-
19 gregate amount of \$1,200,000,000, with each individual
20 category being reduced by the amount of savings in such
21 category resulting from the enactment of section 211.

22 (b) FISCAL YEARS 1994 AND 1995.—The overall dis-
23 cretionary spending limits established in section 601(a)(2)
24 of the Congressional Budget Act of 1974 for fiscal years

1 1994 and 1995 as in effect on the date of enactment of
2 this Act are reduced by—

3 (1) \$3,991,000,000 in outlays for fiscal year
4 1994; and

5 (2) \$7,135,000,000 in outlays for fiscal year
6 1995.

7 (c) FISCAL YEARS 1996, 1997, AND 1998.—

8 (1) IN GENERAL.—For fiscal years 1996, 1997,
9 and 1998, there shall be caps on discretionary
10 spending as provided in section 601(a)(2) of the
11 Congressional Budget Act of 1974 for fiscal years
12 1994 and 1995, subject to the provisions of para-
13 graphs (2) and (3).

14 (2) LEVEL OF LIMITS.—The discretionary lim-
15 its on new budget authority and outlays for fiscal
16 years 1996, 1997, and 1998 shall be—

17 (A) the levels assumed in H. Con. Res. 64,
18 agreed to March 31, 1993, for such fiscal years,
19 reduced by

20 (B)(i) \$8,001,000,000, in outlays for fiscal
21 year 1996;

22 (ii) \$9,022,000,000, in outlays for fiscal
23 year 1997; and

24 (iii) \$9,843,000,000, in outlays for fiscal
25 year 1998.

1 (3) EXTENSION OF LAW.—The provisions of the
2 Balanced Budget and Emergency Deficit Control
3 Act of 1985 and the Congressional Budget Act of
4 1974 relating to the enforcement of the discre-
5 tionary spending limit for fiscal years 1994 and
6 1995 are extended through fiscal year 1998 for the
7 purpose of enforcing the limits set forth in this sub-
8 section.

9 **Subtitle B—Spending Cuts**

10 **SEC. 211. ADMINISTRATIVE EXPENSES.**

11 (a) IN GENERAL.—Of the amounts provided in pre-
12 vious fiscal year 1993 appropriations Acts and available
13 budget authority under previous appropriations Acts, such
14 amounts of budgetary resources are rescinded so as to
15 equal \$1,200,000,000 in outlays as provided in sub-
16 sections (b) and (c).

17 (b) OMB REDUCTIONS.—

18 (1) IN GENERAL.—The Director of the Office of
19 Management and Budget shall make uniform per-
20 centage reductions in budget authority in Federal
21 agency administrative expenses, except that no re-
22 duction shall be made in current rates of pay under
23 current law.

24 (2) NO APPROPRIATIONS ACT.—To the extent
25 budgetary resources are not provided in appropria-

1 tions Acts, the Director shall make the same uni-
 2 form percentage reduction as required in paragraph
 3 (1) in Federal administrative expenses as deter-
 4 mined in section 256(h) of the Balanced Budget and
 5 Emergency Deficit Control Act of 1985.

6 (c) DEFINITION.—For the purposes of this section,
 7 Federal agency administrative expenses are defined as ob-
 8 ject classes 10 (excluding object classes 12.1, 12.2, and
 9 13.0), 20 (excluding object class 23.1), and 30.

10 **SEC. 212. PERMANENT ELIMINATION OF THE ALTER-**
 11 **NATIVE-FORM-OF-ANNUITY OPTION EXCEPT**
 12 **FOR INDIVIDUALS WITH A CRITICAL MEDI-**
 13 **CAL CONDITION.**

14 (a) CIVIL SERVICE RETIREMENT SYSTEM; FEDERAL
 15 EMPLOYEES' RETIREMENT SYSTEM.—Sections 8343a and
 16 8420a of title 5, United States Code, are each amended—

17 (1) in subsection (a) by striking “an employee
 18 or Member may,” and inserting “any employee or
 19 Member who has a life-threatening affliction or
 20 other critical medical condition may,”; and

21 (2) by striking subsection (f).

22 (b) FOREIGN SERVICE RETIREMENT AND DISABIL-
 23 ITY SYSTEM.—Section 807(e)(1) of the Foreign Service
 24 Act of 1980 (22 U.S.C. 4047(e)(1)) is amended by strik-
 25 ing “a participant may,” and inserting “any participant

1 who has a life-threatening affliction or other critical medi-
2 cal condition may.”.

3 (c) CENTRAL INTELLIGENCE AGENCY RETIREMENT
4 AND DISABILITY SYSTEM.—Section 294(a) of the Central
5 Intelligence Agency Retirement Act (50 U.S.C. 2143(a)),
6 as set forth in section 802 of the CIARDS Technical Cor-
7 rections Act of 1992 (Public Law 102–496; 106 Stat.
8 3196), is amended by striking “a participant may,” and
9 inserting “any participant who has a life-threatening af-
10 fliction or other critical medical condition may,”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall become effective on January 1, 1994,
13 and shall apply with respect to any annuity commencing
14 on or after that date.

15 **SEC. 213. GROUP HEALTH PLAN INFORMATION REPORT-**
16 **ING.**

17 (a) IN GENERAL.—Subsection (a) of section 6051 of
18 the Internal Revenue Code of 1986 (relating to receipts
19 for employees) is amended—

20 (1) by striking “and” at the end of paragraph
21 (8),

22 (2) by striking the period at the end of para-
23 graph (9) and inserting “, and”, and

24 (3) by inserting after paragraph (9) the follow-
25 ing new paragraph:

1 “(10) whether a group health plan (as defined
2 in section 6103(l)(12)(E)(ii) is available to the em-
3 ployee and the plan coverage (single or family) elect-
4 ed by such employee (if any).”.

5 (b) DISCLOSURE OF INFORMATION.—Paragraph (12)
6 of section 6103(l) of the Internal Revenue Code of 1986
7 (relating to disclosure of returns and return information
8 for purposes other than tax administration) is amended—

9 (1) by striking “the Administrator of the
10 Health Care Financing Administration, disclose to
11 the Administrator” in subparagraph (B) and insert-
12 ing “the applicable official, disclose to such official”,

13 (2) by adding at the end of subparagraph (B)
14 the following new clause:

15 “(iv) With respect to each such medicare
16 beneficiary and spouse (if any), the group
17 health plan information required under section
18 6051(a)(10).”.

19 (3) by striking the matter preceding clause (i)
20 of subparagraph (C) and inserting the following:

21 “(C) DISCLOSURE BY OFFICIAL.—With re-
22 spect to the information disclosed under sub-
23 paragraph (B), the applicable official may dis-
24 close—”,

1 (4) by striking “as having received wages from
2 the employer” in subparagraph (C)(i),

3 (5) by striking “such Administrator” each place
4 it appears in subparagraph (C)(iii) and inserting
5 “such official”,

6 (6) by striking clause (iii) of subparagraph (E),
7 and inserting the following new clause:

8 “(iii) APPLICABLE OFFICIAL.—The
9 term ‘applicable official’ means—

10 “(I) the Administrator of the
11 Health Care Financing Administra-
12 tion,

13 “(II) the Secretary of Defense,

14 “(III) the Secretary of Veterans
15 Affairs, and

16 “(IV) the Director of the Office
17 of Personnel Management.”,

18 (7) by striking “qualified employer” each place
19 it appears and inserting “employer”,

20 (8) by striking subparagraph (F), and

21 (9) by inserting “AND GROUP HEALTH PLAN” in
22 the heading thereof.

23 (c) DATA BANK.—Paragraph (5) of section 1862(b)
24 of the Social Security Act (42 U.S.C. 1395y(b)) is amend-

1 ed by adding at the end thereof the following new subpara-
2 graph:

3 “(F) MEDICARE SECONDARY PAYER DATA
4 BANK.—The Secretary shall collect and store in
5 a data bank established for purposes of this
6 subsection the information provided to the Sec-
7 retary by entities as described in this paragraph
8 along with such further information on medi-
9 care secondary payer situations as the Sec-
10 retary deems appropriate not later than July 1,
11 1994.”.

12 (d) CONFORMING AMENDMENTS.—Paragraph (5) of
13 section 1862(b) of the Social Security Act (42 U.S.C.
14 1395y(b)) is amended—

15 (1) by striking “a qualified employer (as de-
16 fined in section 6103(l)(12)(D)(iii) of such Code)”
17 in subparagraph (C)(i) and inserting “an employer”,
18 and

19 (2) by striking clause (iii) of subparagraph (C).

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 1992.

1 **SEC. 214. ADDITIONAL SPENDING REDUCTIONS.**

2 It is the sense of the Congress that the reductions
3 in discretionary spending as set forth in section 201 of
4 this Act shall be achieved by—

5 (1) reducing Federal aid for mass transit;

6 (2) eliminating highway demonstration pro-
7 grams;

8 (3) modifying the Service Contract Act by elimi-
9 nating the successorship provision;

10 (4) reducing Federal employment by 150,000
11 employees;

12 (5) reducing Federal Government administra-
13 tive expenses;

14 (6) modifying vacation leave for Federal man-
15 agers;

16 (7) reducing legislative branch administrative
17 expenses;

18 (8) eliminating the Interstate Commerce Com-
19 mission;

20 (9) closing and privatizing the Federal Helium
21 Reserve;

22 (10) reducing Legal Services funding by 50 per
23 cent;

24 (11) terminating the Copyright Royalty Com-
25 mission; and

1 (12) reducing funding for the European Bank
2 for Reconstruction and Development, the Special
3 Defense Acquisition Fund, and freezing funding for
4 International Development Authority.

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S 1058 IS—2

S 1058 IS—3

S 1058 IS—4

S 1058 IS—5